



**STATE OF NEW JERSEY  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
[www.bpu.state.nj.us](http://www.bpu.state.nj.us)**

**ENERGY**

IN THE MATTER OF THE PETITION OF NUI	)	ORDER ADOPTING
UTILITIES, INC. d/b/a/ ELIZABETHTOWN GAS	)	SETTLEMENT FOR
COMPANY TO REVISE ITS [1] WEATHER	)	FINAL RATES
NORMALIZATION CLAUSE RATE; [2] SOCIETAL	)	
BENEFITS CHARGE RATE; [3] TRANSPORTATION	)	GR03100812
INITIATION CLAUSE RATE; AND [4] ON-SYSTEM		GR04080871
MARGIN SHARING CREDIT, AND TO MAKE		
CHANGES IN ITS GAS TARIFFS PURSUANT TO		DOCKET NOS. GR03100812
<u>N.J.S.A. 48:2-21</u> AND <u>N.J.S.A. 48:2-21.1</u>		GR04080871

(SERVICE LIST ATTACHED)

BY THE BOARD<sup>1</sup>

This Order resolves two pending dockets. The procedural history of these matters is as follows.

Docket No. GR03100812

On October 15, 2003, NUI Utilities, Inc., d/b/a Elizabethtown Gas Company ("Company" or "Elizabethtown"), filed a petition with the Board of Public Utilities ("BPU" or "Board") in Docket No. GR03100812 to revise its: Societal Benefits Charge ("SBC") rate, Weather Normalization Clause ("WNC") rate, Transportation Initiation Clause ("TIC") rate, and On-System Margin Sharing Credit ("OSMC").

**SBC**

In its October 15 Petition, the Company also proposed to revise four of the six components that comprise the Company's SBC rate, namely: (1) the Clean Energy Program ("CEP") charge, formerly known as the Comprehensive Resource Analysis ("CRA"); (2) the Remediation Adjustment Charge ("RAC"); (3) the Energy Education Clause ("EEC"), formerly known as the Consumer Education Program charge; and (4) the Interim Universal Service Fund ("USF-I") charges. The October 15 Petition proposed that the rates for the other two components of the SBC: the Permanent USF rate (USF-P)<sup>2</sup> and the Lifeline rate<sup>3</sup>, continue pursuant to a June 30,

<sup>1</sup> Commissioner Christine V. Bator abstained from voting on this matter.

<sup>2</sup> The October 15 Petition proposed the continuation of the then-current USF-P rate of \$0.0024 per therm. The June 30 Order approved an increase to the USP-P rate to \$0.0093 per therm.

2004 Board Order in Docket Number EX00020091. These changes to the USF-P and Lifeline rates resulted in a corresponding increase in Elizabethtown's then-current SBC rate from \$0.0238 to \$0.0296 per therm, and changed its proposed SBC per-therm rate in Docket No. GR03100812 from \$0.0296 to \$0.0334 per therm.

The proposed changes in the various components of the SBC rate in Docket No. GR03010812 were as follows:

Rate Category	Proposed Rates Per GR03100812	Prior Approved Rates
CEP	\$0.0098	\$0.0087
RAC	\$0.0060	\$0.0049
EEC	\$0.0030	\$0.0024
USF-I	\$0.0010	\$0.0000
USF-P	\$0.0093	\$0.0093
Lifeline	\$0.0043	\$0.0043
Total		
SBC	\$0.0334	\$0.0296

#### WNC

Shortly before the filing of the October 15 Petition, the Board issued Order Approving Stipulation in Docket No. GR02080531 ("October 10 Order"). The October 10 Order approved a Stipulation dated June 30, 2003 ("June 30 Stipulation"). In accordance with the Board's October 10 Order, Elizabethtown proposed in its October 15 Petition a WNC rate of \$0.0016 per therm for the period November 1, 2003 through May 31, 2004 reflecting the actual results for the 2002-2003 Winter Period. The proposed rate was designed to enable the Company to collect its net WNC revenue deficiency at May 31, 2003, which totaled \$513,890. In accordance with the October 10 Order, the Company implemented a provisional WNC rate of \$0.0016 per therm effective November 1, 2003.

#### TIC

The October 15 Petition proposed to establish a TIC rate of \$0.0032 per therm to be applicable to the Company's Residential Delivery, Small General Delivery, General Delivery, Multi-Family, Temperature Control and Un-metered Outdoor Gas Lighting Service Classifications effective December 1, 2003. The TIC rate was designed to recover \$999,946 in Electronic Data Interchange ("EDI") related costs incurred in accordance with the Board's policies and orders regarding EDI.

#### OSMC

Finally, the October 15 Petition proposed an OSMC of (\$0.0241) per therm applicable to the Company's firm sales and residential transportation customers effective December 1, 2003. The proposed OSMC reflected a decrease of \$0.0079 per therm from the then-current credit of (\$0.0320) per therm. The proposed OSMC was designed to effectuate the refund of \$6,406,581 of non-firm margins to firm customers.

#### Docket No. GR04080871

On August 18, 2004, Elizabethtown filed a petition ("August 18 Petition") with the Board in Docket No. GR04080871 to further revise and update its, SBC, WNC, TIC and OSMC rates:

SBC – Four of the six components of the SBC were proposed to change:

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<sup>3</sup> The October 15 Petition proposed the continuation of the then-current Lifeline rate of \$0.0054 per therm. The June 30 Order approved a Lifeline rate of \$0.0043 per therm.

The CEP was created as a result of the Electric Discount and Energy Competition Act of 1999 ("EDECA") in an effort to promote both energy efficiency and renewable energy programs. The Company sought to recover \$9,351,489 in program and carrying costs by increasing its after-tax per-therm rate from \$0.0087 per therm to \$0.0142 per therm.

The RAC allows the Company to adjust its rates to recover environmental remediation costs associated with its six former manufactured gas plant sites. Elizabethtown sought to reduce its after-tax factor from \$0.0049 per therm to \$0.0028 per therm, to recover \$1,822,357 in costs.

The EEC authorizes the recovery of the Company's share of costs for the New Jersey Energy Choice program and other consumer awareness activities. The Company sought a decrease to its after-tax factor from \$0.0024 per therm to \$0.0008 per therm, enabling the Company to recover \$556,778 in program costs.

The USF-I was designed to provide qualifying applicants a one-time credit to their heating bills, while the details of a permanent USF ("USF-P") program were being developed. The Company sought recovery of \$545,886 in costs, translating to an after-tax rate of \$0.0008 per therm.

The WNC normalizes the financial impact of actual weather conditions on both the Company and its weather-sensitive ratepayers. As of the WNC period ending May 31, 2004, there was \$1,325,997 excess margin to be returned to ratepayers. This translated to an after-tax per therm credit of \$0.0042. In accordance with the WNC requirements, the Company also proposed to revise the Degree Day Consumption Factors used to calculate WNC margins for the 2004-2005 winter period.

The TIC is designed to recover electric data interchange ("EDI") development and operating costs. In generic terms, EDI is the computer-to-computer exchange of business documents in standard, machine-readable formats, allowing participating parties to develop the business processes and automated systems needed to facilitate data exchange. The Company petitioned to recover \$1,101,218 in costs through approval of an after-tax rate of \$0.0031 per therm.

The OSMC, in accordance with Docket Nos. GX99030121, et al., provides for 80% of the margins generated from certain on-system non-firm sales and transportation services to be shared with firm customers via a rate credit. As of June 30, 2004, the Company credited \$6,824,539 in shared margins through the OSMC that did not materialize. To mitigate the impact of recovering this balance from firm customers, the Company proposed to return the balances that remained in two unused and expired Board-authorized accounts: the Market Development Fund ("MDF"), totaling (\$2,232,705), and the Customer Account Service Fund ("CAS"), totaling (\$1,546,667). The MDF<sup>4</sup> was established to encourage customers to convert to unbundled transportation services, while the CAS<sup>5</sup> was to provide credits to third party suppliers for providing consolidated bills to Elizabethtown's customers. The terms of the Board-approved Stipulations that established these accounts have expired. As a further mitigating measure, the Company proposed to recover the net amount of \$3,045,167 over a three year period, or \$1,015,056 per year. This amount partially offsets the margin sharing contribution (per the August 18 Petition) for the twelve months ending June 30, 2005 of \$4,811,552. The resulting OSMC of (\$3,796,496) translates to an after-tax, per-therm credit of \$0.0123.

Representatives of the Company, Board's Staff, and the Office of the Ratepayer Advocate, Division of the Rate Counsel ("the Parties") conducted discovery and discussed the matters at

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<sup>4</sup> The Board approved the MDF in an Order dated March 30, 2001 in Docket Nos. GX99030121 et al.

<sup>5</sup> The Board approved the CAS in an Order dated May 6, 2002 in Docket Nos. EX99090676 et al.

issue. As a result of those discussions, the Parties determined that additional time was needed to complete review of the Company's filing. The Parties further agreed that provisional price changes were reasonable in order to permit Elizabethtown to collect appropriate costs on a timely basis, and avoid the augmenting of further under and over-recoveries.

By Order dated October 5, 2004 in these proceedings, the Board approved an Interim Settlement For Provisional Rates ("Interim Settlement") executed by the Parties reflecting the August 18, 2004 Petition rates, subject to refund with interest, and the final outcome of these proceedings.

On August 29, 2005, the Parties reached a Stipulation agreeing that the provisional rates established in the October 5, 2004 Board Order and reflected above, shall become final, and no longer subject to refund. Prior to seeking Board approval of the August 29, 2005 Stipulation, the Parties continued discussions with respect to the EEC and TIC rate components.

Subsequently, on July 28, 2006, the Parties agreed to an Amended Stipulation wherein, on the effective date of the Board Order in these dockets, the provisional rates established as a result of the October 5, 2004 Order shall become final. In addition, the Parties agreed to eliminate the ECC component of the SBC, and the TIC rate as of the effective date of this matter, as no further program charges are anticipated. As of April 30, 2006 the EEC and the TIC were over-recovered by \$535,498 and \$631,914, respectively. The Parties agreed that the Company shall provide a reconciliation of its EEC-related costs and recoveries as part of its next annual SBC filing to be made in August of 2006. The treatment of the net over or under recoveries, including any applicable interest, will be determined in the August 2006 annual SBC filing. The Parties also agreed that the Company shall credit the actual TIC over recovery balance, including any applicable interest, to the OSMC and shall provide a reconciliation of its TIC related costs and recoveries as part of its next annual SBC filing to be made in August, 2006. The Parties further agreed to mitigate the impact of recovering the OSMC balance from firm customers by the MDF and CAS offsets referenced above; and that the Company shall be permitted to recover its remaining excess OSMC credit balance over an appropriate period to be determined in future proceedings.

## DISCUSSION AND FINDINGS

The Board has reviewed the attached Amended Stipulation of the Parties and HEREBY FINDS it to be reasonable and in the public interest. Accordingly, the Board HEREBY ADOPTS the Amended Stipulation as a final resolution in these proceedings and HEREBY ORDERS that, effective on the date of this Order, the following after-tax, per-therm rates are deemed final:

Program	\$ Per Therm	Program	\$ Per Therm
CEP	\$0.0142	WNC	-\$0.0042
RAC	\$0.0028	TIC	\$0.0031
EEC	\$0.0008	OSMC	-\$0.0123
USF-I	\$0.0008		
USF-P <sup>6</sup>	\$0.0093		
Lifeline <sup>7</sup>	<u>\$0.0043</u>		
Total			
SBC	\$0.0322		

<sup>6</sup>Rate effective July 1, 2004

<sup>7</sup> Ibid.

In addition, the Board ORDERS the Company to: 1) cease charging the EEC component of the SBC as of the effective date in this matter, and provide a reconciliation of its EEC-related costs and recoveries as part of its next annual SBC filing to be made in August, 2006; 2) cease charging the TIC rate as of the effective date of the Board's Order in this docket, credit the actual over-recovered amount to the OSMC, and provide a reconciliation of the Company's TIC related costs and recoveries as part of its annual SBC filing to be made in August, 2006. The Company is HEREBY DIRECTED to file tariff sheets consistent with the Board's decision in the instant matter within twenty days of the effective date in this matter eliminating the EEC and the TIC components of the Company's SBC.

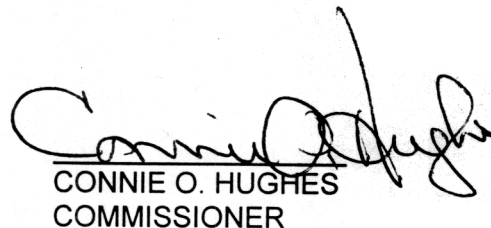
The Board FURTHER ORDERS that the Company's costs shall remain subject to on-going audit by the Board, and that this Order shall not preclude, nor prohibit, the Board from taking any such actions determined to be appropriate as a result of any such audit.

DATED: 9/14/06

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

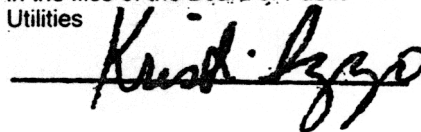
  
CONNIE O. HUGHES  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



In the Matter of the Petition of NUI Utilities, Inc. d/b/a Elizabethtown  
Gas Company to Revise its: [1] Societal Benefits Charge Rate;  
[2] Weather Normalization Clause Rate; [3] Transportation Initiation  
Clause Rate; and [4] On-System Margin Sharing Credit  
Docket Nos. GR03100812, GR04080871

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2006 AUG 11 AM 11:00

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August 10, 2006

*Via Federal Express*

Honorable Kristi Izzo  
Secretary  
State of New Jersey  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

06 AUG 11 AM 11:30  
UTILITIES

**Re: In The Matter Of The Petition Of NUI Utilities, Inc. d/b/a Elizabethtown Gas Company To (1) Revise Its Weather Normalization Clause Rate; (2) Revise Its Societal Benefits Charge Rate; (3) Revise Its Transportation Initiation Clause Rate; And (4) Revise Its On-System Margin Sharing Credit, BPU Docket No. GR03100812**

**In The Matter Of The Petition Of NUI Utilities, Inc. d/b/a Elizabethtown Gas Company To (1) Revise Its Weather Normalization Clause Rate; (2) Revise Its Societal Benefits Charge Rate; (3) Revise Its Transportation Initiation Clause Rate; And (4) Revise Its On-System Margin Sharing Credit, BPU Docket No. GR04080871**

Dear Secretary Izzo:

Enclosed for filing in the above proceedings are an original and ten copies of an Amended Stipulation. The Amended Stipulation is executed by Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas ("Elizabethtown"), the Staff of the Board of Public Utilities and the Department of the Public Advocate, Division of Rate Counsel, the only current parties to the above proceeding. Elizabethtown requests the Board of Public Utilities to consider and approve the Amended Stipulation at its earliest convenience.

If you have any questions concerning the Amended Stipulation, please contact the undersigned. Thank you for your attention in this matter.

Yours truly,

*Kenneth T. Maloney / CBT*

Kenneth T. Maloney

Of Counsel To

Pivotal Utility Holdings, Inc. d/b/a  
Elizabethtown Gas

*in  
Beslow  
stern  
ENERGY*

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cc: Service List

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GR04080871  
GR03100812  
WNC, SBC, TIC, OSMC  
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August 10, 2006

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**STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES**

-----X  
**In The Matter Of The Petition Of NUI Utilities, Inc.  
d/b/a Elizabethtown Gas Company To (1) Revise Its  
Weather Normalization Clause Rate; (2) Revise Its  
Societal Benefits Charge Rate; (3) Revise Its  
Transportation Initiation Clause Rate; And (4) Revise  
Its On-System Margin Sharing Credit**

**BPU Docket No. GR03100812**

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-----X  
**In The Matter Of The Petition Of NUI Utilities, Inc.  
d/b/a Elizabethtown Gas Company To (1) Revise Its  
Weather Normalization Clause Rate; (2) Revise Its  
Societal Benefits Charge Rate; (3) Revise Its  
Transportation Initiation Clause Rate; And (4) Revise  
Its On-System Margin Sharing Credit**

**BPU Docket No. GR04080871**

:

**AMENDED STIPULATION**

-----X  
This Stipulation is intended to resolve the two matters cited above, Docket Nos. GR03100812 and GR04080871, replacing a stipulation filed by Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas ("Elizabethtown" or "Company") with the Board of Public Utilities ("BPU" or "Board") on August 29, 2005 in the above captioned proceedings. That stipulation was never submitted to the Board for decision.

**BACKGROUND**

**Docket No. GR03100812**

On October 15, 2003, NUI Utilities, Inc. d/b/a Elizabethtown Gas Company ("Elizabethtown" or "Company") filed a petition ("October 15 Petition") with the Board of Public Utilities ("BPU" or "Board") in BPU Docket No. GR03100812 to revise: (1) its Weather

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The name of NUI Utilities, Inc. has been changed to Pivotal Utility Holdings, Inc.

Normalization Clause (“WNC”) rate, (2) its Societal Benefits Charge (“SBC”) rate, (3) its Transportation Initiation Clause (“TIC”) rate, and (4) its On-System Margin Sharing Credit (“OSMC”).

### **WNC**

Shortly before the filing of the October 15 Petition, the Board issued Order Approving Stipulation in Docket No. GR02080531 (“October 10 Order”). The October 10 Order approved a Stipulation dated June 30, 2003 (“June 30 Stipulation”). In accordance with the Board’s October 10 Order, Elizabethtown proposed in its October 15 Petition a WNC rate of \$0.0016 per therm for the period November 1, 2003 through May 31, 2004 reflecting the actual results for the 2002-2003 Winter Period. The proposed rate was designed to enable the Company to collect its net WNC revenue deficiency at May 31, 2003, which totaled \$513,890. In accordance with the October 10 Order, the Company implemented a provisional WNC rate of \$0.0016 per therm effective November 1, 2003.

### **SBC**

In its October 15 Petition, the Company also proposed to revise four of the six components that comprise the Company’s SBC rate, namely: (1) the Clean Energy Program (“CEP”) charge, formerly known as the Comprehensive Resource Analysis (“CRA”); (2) the Remediation Adjustment Charge (“RAC”); (3) the Energy Education Clause (“EEC”), formerly known as the Consumer Education Program charge; and (4) the Interim Universal Service Fund (“USF-I”) charges. The October 15 Petition proposed that the rates for the other two components of the SBC: the Permanent USF rate (USF-P)<sup>2</sup> and the Lifeline rate<sup>3</sup>, continue pursuant to a June

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<sup>2</sup> The October 15 Petition proposed the continuation of the then-current USF-P rate of \$0.0024 per therm.

30, 2004 Board Order in Docket Number EX00020091. These changes to the USF-P and Lifeline rates resulted in a corresponding increase in Elizabethtown's then-current SBC rate from \$0.0238 to \$0.0296 per therm, and changed its proposed SBC per-therm rate in Docket No. GR03100812 from \$0.0296 to \$0.0334 per therm.

The proposed changes in the various components of the SBC rate in Docket No. GR03010812 were as follows:

Rate Category	Proposed Rates Per GR03100812	Prior Approved Rates
CEP		
RAC		
EEC		
USF-I		
USF-P		
Lifeline		
Total SBC		

## **TIC**

The October 15 Petition proposed to establish a TIC rate of \$0.0032 per therm to be applicable to the Company's Residential Delivery, Small General Delivery, General Delivery, Multi-Family, Temperature Control and Unmetered Outdoor Gas Lighting Service Classifications effective December 1, 2003. The TIC rate was designed to recover \$999,946 in Electronic Data Interchange ("EDI") related costs incurred in accordance with the Board's policies and orders regarding EDI.

## **OSMC**

Finally, the October 15 Petition proposed an OSMC of (\$0.0241) per therm applicable to

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<sup>2</sup> The June 30 Order approved an increase to the USP-P rate to \$0.0093 per therm.

<sup>3</sup> The October 15 Petition proposed the continuation of the then-current Lifeline rate of \$0.0054 per therm.

the Company's firm sales and residential transportation customers effective December 1, 2003. The proposed OSMC reflected a decrease of \$0.0079 per therm from the then-current credit of (\$0.0320) per therm. The proposed OSMC was designed to effectuate the refund of \$6,406,581 of non-firm margins to firm customers.

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The June 30 Order approved a Lifeline rate of \$0.0043 per therm.

**Docket No. GR04080871**

On August 18, 2004, Elizabethtown filed a petition (“August 18 Petition”) in Docket No. GR04080871 to further revise and update its WNC, SBC, TIC and OSMC rates. In the August 18 Petition, the Company proposed to establish the following per-therm rates to be effective October 1, 2004:

Component	Proposed Rates Per GR04080871	Prior Approved Rates	Recovery/ Refund Amounts
CEP	\$0.0142	\$0.0087	\$9,351,489
RAC	\$0.0028	\$0.0049	\$1,822,357
EEC	\$0.0008	\$0.0024	\$556,778
USF-I	\$0.0008	\$0.0000	\$545,886
USF-P	\$0.0093	\$0.0093	N/C
Lifeline	\$0.0043	\$0.0043	N/C
Total SBC	\$0.0322	\$0.0296	\$12,276,510
WNC	(\$0.0042)	\$0.0090	(\$1,325,997)
TIC	\$0.0031	\$0.0000	\$1,101,218
OSMC	(\$0.0123)	(\$0.0320)	(\$3,801,039)

The proposed rates were designed to: (1) refund \$1,325,997 of WNC-related margins through the WNC during the period October 1, 2004 through May 31, 2005; (2) recover \$12,276,510 of total SBC-related costs (exclusive of USF-P and Lifeline-related costs) during the period October 1, 2004 through September 30, 2005; (3) recover \$1,101,218 of TIC-related costs during the period October 1, 2004 through September 30, 2005; and (4) refund \$3,801,039 million of OSMC margins during the period October 1, 2004 through September 30, 2005. The Company also proposed to revise the Degree Day Consumption Factors used to calculate WNC margins for the 2004-2005 winter.

By Order dated October 5, 2004, the Board approved an Interim Stipulation Concerning Provisional Rates (“October 5 Interim Stipulation”) executed by representatives of the Company, the Board’s Staff and the Division of the Ratepayer Advocate. The Interim Stipulation permitted the Company to provisionally change rates as follows: (1) the WNC rate to (\$0.0042) per therm, (2) the SBC rate to \$0.0322 per therm, (3) the TIC rate to \$0.0031 per therm, (4) the OSMC to (\$0.0123) per therm, and (5) to change the proposed revised WNC Degree Day Consumption Factors. These provisional rates and factors are currently in effect<sup>4</sup>, subject to refund with interest and the final outcome of these proceedings.

### **Public Hearings**

Duly noticed public hearings concerning the Company’s Petition in Docket No. GR03100812 were held on August 16, 2004 in Flemington, New Jersey and August 18, 2004 in Rahway, New Jersey. For purposes of the notice and public hearings, the Company’s filing in BPU Docket No. GR04080871 was treated as an update filing to its GR03100812 Petition because the rates proposed in Docket No. GR03100812 had never been put into effect. The Company’s notice of public hearings had properly specified that the rates approved by the Board could be higher or lower depending on the Board’s order.

Representatives of the Company, Board’s Staff, and the Department of the Public Advocate, Division of Rate Counsel (“Rate Counsel”)<sup>5</sup>, the only Parties to this proceeding, have conducted discovery and discussed the matters at issue herein. As a result of those discussions, the Parties have reached this Stipulation which is intended to resolve all issues in these

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<sup>4</sup> In accordance with the terms of the WNC, the WNC rate was in effect through May 31, 2005

<sup>5</sup> The Division of the Ratepayer Advocate is now “the Department of the Public Advocate, Division of Rate Counsel”.

proceedings.

## **STIPULATION**

Based upon and subject to the terms and conditions set forth herein, the Board Staff, Rate Counsel and Elizabethtown (hereinafter "the Parties") stipulate and agree as follows:

**A. Applicable Rates.** On the Effective Date of a Board Order in these dockets, the provisional rates established in the October 5 Interim Stipulation shall become final and shall no longer be subject to refund. The permanent per-therm after-tax rates are as follows: (1) WNC (\$0.0042), (2) SBC \$0.0322, (3) TIC \$0.0031, and (4) OSMC (\$0.0123),. In addition, the revised WNC Degree Day Consumption Factors reflect the numbers of customers served as of May 31,

Except as discussed below, these rates and factors shall remain in effect until changed by further order of the Board.

**B. Recoverable Costs**

As of May 31, 2003, Elizabethtown's WNC net revenue deficiency was \$513,890. During the 2003-2004 WNC Winter Period, the Company both recovered the \$513,890 balance as well as an additional overrecovery balance of \$33,179. In addition, the 2003-2004 Winter Period was 64 degree days (1.3%) colder-than-normal, resulting in an excess margin balance of \$1,292,818. Thus, the total WNC over-recovery balance was \$1,325,997 as of May 31, 2004. The WNC rate of (\$0.0042) per therm is designed to return the amount of \$1,325,997 to customers subject to the WNC during the 2004-2005 Winter Period.

### **SBC/RAC**

The \$0.0028 per therm RAC component of the SBC is designed to enable the Company to recover RAC-related costs of \$1,822,357 during the twelve months ending September 30, 2005. This amount reflects the recovery of one-seventh of eligible net deferred remediation costs incurred during each year of a seven-year period ending June 30, 2004. Elizabethtown's net deferred remediation costs eligible for recovery through the RAC component of the SBC totaled \$656,148 for the twelve months ended June 30, 2003 and \$496,592 for the twelve months ended June 30, 2004. These costs shall be recovered through the RAC component of the SBC over seven year amortization periods in accordance with the terms of the RAC. These costs, in addition to costs previously approved, total \$1,822,357.

### **SBC/EEC**

The \$0.0008 per therm EEC component of the SBC is designed to enable the Company to recover the balance of \$556,778 in EEC-related costs over the twelve months ending September 30, 2005. This includes recoverable EEC costs of \$15,440 for the twelve months ended June 30, 2003 and \$8,640 for the twelve months ended June 30, 2004.

### **SBC/CEP**

The 0.0142 per therm CEP component of the SBC is designed to enable the Company to recover the balance of \$9,351,489 of CEP-related costs during the twelve months ending September 30, 2005. This includes recoverable CEP costs of \$2,566,428 for the twelve months ended June 30, 2003 and \$3, 956,008 for the twelve months ended June 30, 2004 which includes



the June 30, 2003 amount, as well as the fiscal agent payments of \$5,395,481, as directed by the Board.

### **SBC/USF-I**

The \$0.0008 per therm USF-I component of the SBC is designed to enable the Company to recover \$545,886 of USF-I related costs during the twelve months ended September 30, 2005. This amount consists of \$4,100 of costs incurred during the twelve months ended June 30, 2004, \$518,056 of costs incurred prior to July , 2003 and \$23,730 of carrying costs.

### **TIC**

Elizabethtown's recoverable TIC costs (including carrying costs) eligible for recovery through the TIC total \$1,101,218 for the period ending June 30, 2004. These costs consist of \$1,053,773 of current and prior period TIC-related costs and \$47,445 of carrying charges for the period July , 2003 through June 30, 2004. These costs reflect program expenditures for the period August 1, 2000 through June 30, 2004 because no TIC rate has been implemented previously. These costs shall be recovered through the TIC in accordance with the terms of the TIC.

C. **Market Development Fund/Third Party Supplier Billing Fund.** In its Petition, Elizabethtown proposed to close, as of September 30, 2004, the Market Development Fund ("MDF")<sup>6</sup>, which was created to encourage customers to convert to unbundled transportation services, as well as the Customer Account Service Fund ("CAS Fund"), which was created to provide credits to third party suppliers<sup>7</sup> for providing consolidated bills to Elizabethtown's customers. The terms of the Board-approved Stipulations that created these funds have expired.

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<sup>6</sup> The Board approved the MDF in an Order dated March 30, 2001 in Docket Nos. GX99030121 et al.

Pursuant to the Interim Stipulation, Elizabethtown has credited to the OSMC the balance of the MDF at October 5, 2004, which totaled \$2,232,705, and the balance of the CAS Fund at October 5, 2004, which totaled \$1,546,667<sup>8</sup>.

**D. OSMC Amortization.** As of June 30, 2004, the Company had previously credited \$6,824,539 in shared margins through the OSMC that did not materialize. In order to mitigate the impact of recovering this balance from firm customers, the Company credited to the OSMC the balances that remained in the two unused and expired funds – the MDF and CAS Fund as described in Paragraph C above. These credits totaled \$2,232,705 for the MDF and \$1,546,667 for the CAS. As a further mitigation measure, the Company proposed to recover the remaining net amount of \$3,045,167 over a three-year period. For the year ending June 30, 2005, the Company's margin sharing revenues totaled \$5,917,142. The Company's OSMC of (\$0.0123) per therm is designed to effectuate the return of \$3,796,496 to customers based on the October 5, 2004 MDF and CAS balances. The Company shall be permitted to recover its remaining excess OSMC credit balance over an appropriate period to be determined in future proceedings in which the OSMC is reviewed.

**E. Elimination Of The EEC Component Of The SBC.** As of April 30, 2006, the Company has an EEC component overrecovery balance of \$535,498. Moreover, for the foreseeable future, the parties do not anticipate that the Board will require the Company to incur the types of costs for consumer education that the EEC was designed to recover. Accordingly, in the Company's annual filing which was made on August 19, 2005, in Dkt. No. GR05080730, the

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<sup>7</sup> The Board approved the TPS in an Order dated May 6, 2002 in Docket Nos. EX99090676 et al.

<sup>8</sup> Provisional rates in these proceedings became effective on October 5, 2004.

The balances were credited to the OSMC as of that date.

Company proposed to cease deferring EEC-related costs as of June 30, 2005 and proposed to close out the EEC component of the SBC by crediting the projected overrecovery to another SBC component. The Company shall be permitted to cease charging the EEC component of the SBC as of the Effective Date in this matter. The Company shall provide a reconciliation of its EEC – related costs and recoveries as part of its next annual SBC filing to be made in August 2006. The treatment of the net over or under recoveries, including any applicable interest, will be determined in the August 2006 annual SBC filing. Notwithstanding the foregoing, the Company reserves the right to seek authority from the Board to defer and recover through the SBC costs which the Board may require the Company to incur for energy education in the future.

**F. Elimination of the TIC.** As of April 30, 2006, the Company has a TIC overrecovery balance of \$631,914. This overrecovery balance reflects the actual netting of TIC – related costs and recoveries through April 30, 2006. The Company shall cease charging the TIC rate as of the Effective Date in this matter. The Company shall credit the actual TIC overrecovery balance, including any applicable interest, to the OSMC and shall provide a reconciliation of its TIC – related costs and recoveries as part of its next annual SBC filing to be made in August 2006. Within twenty days of the Effective Date in this matter, the Company shall file tariff sheets eliminating the TIC from its tariff. Notwithstanding the foregoing, the Company reserves the right to seek authority from the Board to defer and recover extraordinary costs which the Board may require the Company to incur in the future for electronic data interchange.

**G. All Issues Resolved.** This Stipulation resolves all issues in the captioned proceedings. This Stipulation completely replaces and supersedes a Stipulation previously filed with the Board in these proceedings on August 29, 2005.

**H. Effective Date.** The Effective Date of this Stipulation shall be the date of a Board order approving this Stipulation without modification.

**I. Entirety Of Stipulation.** This Stipulation represents a mutual balancing of interests and, therefore, is intended to be accepted and approved in its entirety. In the event that the Board does not adopt this Stipulation in its entirety in an Order, then any Party hereto is free to pursue its then available legal remedies with respect to all issues in this Stipulation as though this Stipulation had not been signed.

**J. Binding Effect.** It is the intent of the Parties that the provisions hereof be approved by the Board, as appropriate, as being in the public interest. The Parties further agree that they consider the Stipulation to be binding on them for all purposes herein.

**K. General Reservation.** It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of these proceedings. Except as expressly provided herein, neither Elizabethtown, the Board, its Staff, Rate Counsel nor any other party shall be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein.

WHEREFORE, the Parties hereto do respectfully submit this Stipulation to the Board and request the Board to issue a Decision and Order approving this Stipulation in its entirety in accordance with the terms hereof.

Pivotal Utility Holdings, Inc. d/b/a  
Elizabethtown Gas

Department of the Public Advocate,  
Division of Rate Counsel  
Seema M. Singh, Esquire  
Director

By: Mary Patricia Keefe  
Mary Patricia Keefe  
Director, Regulatory Affairs

By: Judith B. Appel  
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Zulima V. Farber  
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By: Margaret Comes  
Babette Tenzer, DAG  
Margaret Comes, DAG

Dated: July 28, 2000